

## REMARKS

In response to the above identified Office Action, Applicants have amended their application and respectfully request reconsideration thereof.

### *Amendment of Claims*

Claim 9 has been amended to add limitations that specify the type of listing. Support for this amendment may be found in paragraph 22 of the specification.

### *Response to Claim Rejections – 35 USC § 112*

Claims 9, 7-32 and 34 stand rejected under 35 U.S.C § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 9 is rejected for the reason that the limitation “high profile” is considered relative. In response to this rejection claims 9 and 25 have been amended to include specific types of listings.

Claims 7-32 and 34 are rejected for the reason that the limitation “system” may indicate several statutory classes. The statutory class for claims 7-32 and 34 is an apparatus.

*Response to Claim Rejections – 35 USC § 103*

Claims 1-4, 6-35 stand rejected under 35 U.S.C. § 103, as being allegedly unpatentable over U.S. Patent Publication No. 2002/0174060 (hereinafter Friedland) in view of U.S. Patent Publication No. 2001/0049634 (hereinafter Stewart). Reasons for rejection of claims 1-4, 6-35 appear below:

Applicants respectfully submit that claims 1-4, 6-35 should not be rejected under 35 U.S.C. § 103 for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application.

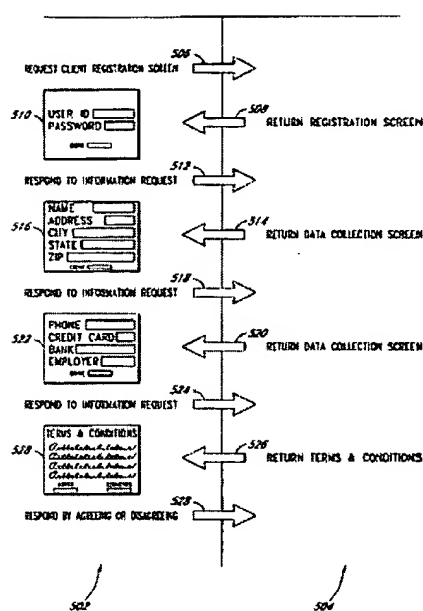
To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1 includes the following limitation:

facilitating a communication between a network-based auction facility and a seller, the communication to authorize a bidder...

The Office Action, in rejecting claim 1, contends that the above limitation is anticipated by the following Figure in Friedland:

FIG. 5



[0058] FIG. 5 illustrates the client registration transaction.

[0060]....The DLA can then use the stored information to facilitate the client's subsequent registration for particular auctions....

Figure 5 illustrates a client registration transaction. The left hand column represents the transaction from the client's perspective, and the right-hand column represents the transaction from the standpoint of the distributed live auction (DLA) (Friedland, paragraph 58). The client registers with the DLA by responding to a registration screen, a data collection screen and a terms and conditions screen.

The above quotes from Friedland further describe Figure 5. Paragraph [0058] discloses that Figure 5 illustrates the client registration transaction. Paragraph [0060] discloses that the DLA uses the stored information to facilitate the client's subsequent registration for particular auctions.

Claim 1 requires a communication between a network-based auction facility and a seller, the communication to authorize a bidder. An exemplary embodiment may include a seller utilizing a web page to add a bidder to a pre-approve bidders list thereby enabling the bidder to bid on a listing offered by the seller (Application, paragraphs 22, 34). Thus, as claim 1 requires, the communication between the network-based auction facility and the seller *authorizes the bidder*. In contrast, Friedland does not disclose a communication between a network-based auction facility and a seller, the communication to authorize a bidder; but rather, a client registration transaction whereby a client registers with a DLA to facilitate the client's registration in an auction. Clearly a seller authorizing a bidder is not the same as a client registering themselves to participate in an auction. Freidland therefore cannot be said to anticipate the above quoted limitation because Freidland discloses a registration transaction between a client and a DLA, the registration transaction to register the client to participate in an auction and claim 1 requires a communication between a network-based auction facility and a seller, the communication to authorize a bidder.

Independent claims 16, 17 and 32-35 each include a limitation corresponding substantially to the above-discussed limitation of claim 1. The above remarks are accordingly also applicable to a consideration of these independent claims.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103 then, any claim depending therefrom is nonobvious and rejection of claims 2-15 and 18-31 under 35 U.S.C. § 103 is also addressed by the above remarks.

In summary, Freidland in combination with Stewart does not teach or suggest each and every limitation of claim 1, 16, 17 and 32-35 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103.

In summary, Applicants believe that all rejections presented in the Office Action have been fully addressed and withdrawal of these rejections is respectfully requested. Applicants furthermore believe that all claims are now in a condition for allowance, which is earnestly solicited.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Mark Vatuone at (408) 947-8200.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: 12/11, 2003



Mark R. Vatuone  
Reg. No. 53,719

12400 Wilshire Blvd.  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 947-8200